



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ryan M. Reynolds

DEC 17 2014

Savannah, GA 31405

RE: MUR 6820
Earl LeRoy ("Buddy") Carter
Buddy Carter for Congress
Friends of Buddy Carter for Senate

Dear Mr. Reynolds:

On December 9, 2014, the Federal Election Commission ("Commission") reviewed the allegations in your complaint, dated May 15, 2014, that Earl LeRoy ("Buddy") Carter, Buddy Carter for Congress and Carlton H. Hodges in his official capacity as treasurer (the "Federal Committee"), and Friends of Buddy Carter for Senate and Mark Smith in his official capacity as treasurer (the "State Committee") (collectively "Respondents") violated the Federal Election Campaign Act of 1971, as amended. On December 9, 2014, the Commission dismissed the allegation that Respondents violated 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)) and 11 C.F.R. § 110.3(d), that the State Committee violated 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)) and 11 C.F.R. § 110.3(d), that the Federal Committee violated 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)) and 11 C.F.R. § 110.3(d), that the State Committee and Carter violated 52 U.S.C. § 30125(e)(1)(B) (formerly 2 U.S.C. § 441i(e)(1)(B)), and that Carter violated 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)) and 11 C.F.R. § 110.3(d). Accordingly, the Commission closed its file in this matter. The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

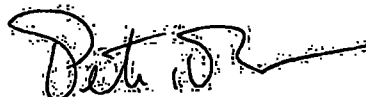
Documents related to the case will be placed on the public record within 30 days. See *Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files*, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and *Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record*, 74 Fed. Reg. 66132 (Dec. 14, 2009).

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The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8) (formerly 2 U.S.C. § 437g(a)(8)).

Sincerely,

Lisa J. Stevenson
Deputy General Counsel — Law



BY: Peter G. Blumberg
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS:** Earl LeRoy ("Buddy") Carter MUR 6820
6 Buddy Carter for Congress and Carlton H. Hodges his official capacity as
7 treasurer
8 Friends of Buddy Carter for Senate and Mark Smith in his official capacity
9 as treasurer
10

11 **I. INTRODUCTION**

12 This matter was generated by a Complaint filed with the Federal Election Commission
13 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by
14 Earl LeRoy ("Buddy") Carter, Buddy Carter for Congress and Carlton H. Hodges in his official
15 capacity as treasurer, and Friends of Buddy Carter for Senate and Mark Smith in his official
16 capacity as treasurer.

17 **II. FACTUAL AND LEGAL ANALYSIS**

18 **A. Background**

19 On May 6, 2013, then-sitting Georgia State Senator Earl LeRoy ("Buddy") Carter
20 announced his candidacy for the U.S. House of Representatives in Georgia's 1st Congressional
21 District.¹ Carter designated Buddy Carter for Congress (the "Federal Committee") as his
22 principal campaign committee for the congressional election.² Carter secured the Republican
23 nomination on July 22, 2014, by winning a run-off election that was held after none of the six
24 candidates running in the primary election received at least 50 percent of the vote. Once he

¹ Compl. at 2.

² FEC Form 1 (Statement of Organization) (Apr. 24, 2013); FEC Form 2 (Statement of Candidacy) (Apr. 24, 2013).

received the nomination, Carter's seat in the state senate was declared vacant, as required by Georgia state law.³

B. State Committee Payments for Staff and Consulting Services

The Complaint alleges that Friends of Buddy Carter for Senate (the "State Committee") paid over \$12,000 to two federal committee staffers and a political consulting firm for services performed on behalf of Carter's federal campaign.⁴ Under the Act, a federal candidate; the agent of a candidate; or an entity directly or indirectly established, financed, maintained, or controlled by, or acting on behalf of a candidate, shall not "solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office" unless the funds are subject to the "limitations, prohibitions, and reporting requirements."⁵ Moreover, Commission regulations prohibit the transfer of funds or assets from a candidate's nonfederal campaign committee to his or her federal campaign committee.⁶ Thus, if the State Committee disbursed approximately \$12,000 to pay for salaries or consultant fees for services provided to the Federal Committee, those payments constitute improper transfers of funds or assets to the Federal Committee.

³ See <https://admin.enr.clarityelections.com/files/GA/52176/137603/en/summary.html?pv=true>. Article II, Section 2, Paragraph V of the Georgia Constitution states that "[t]he office of any state, county, or municipal elected official shall be declared vacant upon such elected official qualifying, in a general primary or general election, or special primary or special election, for another state, county, or municipal elective office or qualifying for the House of Representatives or the Senate of the United States if the term of the office for which such official is qualifying for begins more than 30 days prior to the expiration of such official's present term of office."

⁴ Compl. at 2 (May 15, 2014).

⁵ 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)).

⁶ 11 C.F.R. § 110.3(d) (transfers of funds or assets from a candidate's campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election are prohibited); Transfers of Funds from State to Federal Campaigns, 58 Fed. Reg. 3474 (Jan. 8, 1993) (Explanation and Justification). See e.g., MUR 6267 (Paton For Senate) (Paton's federal committee received prohibited transfer of funds when Paton's state senate committee paid for polling and a survey benefiting his federal campaign); MUR 5646 (Cohen for New Hampshire) (Cohen's federal committee received prohibited transfer of funds when Cohen's state committee paid for start-up expenses related to his U.S. Senate campaign); and MUR 5426 (Dale Schultz for Congress) (Schultz's federal committee received prohibited transfer of funds when the Schultz state committee paid for expenses that the candidate incurred in connection with his federal election).

1. Staff Salaries

The Complaint alleges that the State Committee paid the salaries of two members of Carter's federal campaign staff, Sarah Vardian and Phillip Fordham.⁷ In support of this allegation, the Complaint points to federal and state disclosure reports demonstrating that staffer Sarah Vardian received a salary from both campaigns simultaneously and that the Federal Committee reimbursed staffer Phillip Fordham for expenses while on the State Committee's payroll.⁸ The Complaint surmises from this information that these staffers were in fact working for the federal campaign while being paid by the State Committee.

The Response concedes that Fordham and Vardian provided services to Carter both in his role as a state senator and as a federal candidate, but asserts that the services were "carefully segregated" and that they were compensated by the "appropriate committee."⁹ More specifically, Respondents explain that Fordham served as a "travel assistant" to Carter and the State Committee, assisting Carter with his "official duties" and continuing obligations as a state senator by drafting letters to constituents for Carter's signature, providing constituent services, and performing "research."¹⁰ The Response contends that Fordham began working for the Federal Committee after Carter announced his congressional candidacy, transitioning "from one campaign to another," and was paid for this work "solely by the Federal Committee."¹¹ Further,

⁷ Compl. at 2.

⁸ *Id.*

⁹ Resp. at 2.

¹⁰ Resp. at 1-3. The Response notes that under Georgia law, a state officeholder is permitted to use campaign funds to defray "ordinary and necessary" costs associated with the fulfillment or retention of holding elective office and that Vardian and Fordham were providing services to Carter pursuant to this provision. See O.C.G.A. § 21-5-33(a).

¹¹ *Id.*

1 the Response states that Fordham was “instructed” to keep his federal and state campaign duties
 2 separate and maintain “hourly logs” to indicate how many hours were devoted to each entity.¹²
 3 Vardian, according to the Response, served as an “administrative assistant” to Carter and the
 4 State Committee in connection with Carter’s official position and continuing obligations as a
 5 state senator.¹³ Respondents state that, like Fordham, Vardian joined the federal campaign after
 6 Carter transitioned to the “new” campaign and was instructed to keep her work for the two
 7 campaigns “segregated.”¹⁴

8 Here, the available information shows that both Fordham and Vardian were performing
 9 administrative services for Carter’s state legislative offices and that this activity can be funded,
 10 under Georgia law, with State Committee funds. While information shows that Fordham
 11 apparently attended one Federal Committee fundraiser and received a \$49.10 reimbursement
 12 from the Federal Committee for fundraising supplies while still being paid a salary by the State
 13 Committee, this does not, by itself, provide enough to investigate whether the State Committee’s
 14 committee salary payments subsidized work for the Federal Committee.¹⁵ Similarly, the
 15 Complaint surmises that Vardian’s status as a shared employee between the State Committee and

¹² *Id.* The response, which was not sworn, did not include these “hourly logs” or provide any other supporting documentation showing the segregation of costs.

¹³ Resp. at 2-3. The State Committee’s disclosure reports indicate that it made eleven disbursements, totaling \$1,952.50, to Vardian between September 24, 2013 and February 25, 2014. Vardian’s occupation in these reports is described as “administrative assistant” and the purpose of the disbursements was “a) administrative assistance” and “b) Friends of Buddy Carter.” The Response states that Vardian’s duties, were “not in connection with any federal or non-federal election,” and included drafting letters to constituents for Carter’s signature, interacting with constituents and performing research. *Id.* at 3.

¹⁴ It appears that Vardian began working for the Federal Committee in June 2013. The Federal Committee’s first disbursement to Vardian for “payroll” was on July 3, 2013. The Federal Committee’s disbursements to Vardian averaged \$1,886 per month, with the totals ranging from a high of \$1,996.00 (July 2013) to a low of \$705.00 (November 2013.) See also Compl., Ex. B (Sarah Jayne Vardian’s LinkedIn Profile) (showing that Vardian joined Carter’s federal campaign as a “coordinator” in June 2013).

¹⁵ See Compl. Ex. D (showing State Committee’s salary payments to Fordham through August 28, 2013); Buddy Carter for Congress, 2013 October Quarterly report at 77 (showing Federal Committee reimbursement of \$49.10 to Fordham for fundraising supplies on July 11, 2013).

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1 Federal Committee necessarily indicates that the State Committee subsidized the Federal
2 Committee. Without more information, however, it would not be an efficient use of the
3 Commission's resources to pursue an investigation, and the Commission exercises its
4 prosecutorial discretion to dismiss the allegations that the State Committee subsidized work that
5 Vardian did for the Federal Committee by improperly allocating salary payments between the
6 two committees.¹⁶

7 Accordingly, the Commission dismisses the allegation that Respondents violated
8 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)) and 11 C.F.R. § 110.3(d) by
9 transferring funds or assets to the Federal Committee through salary payments to Sarah Vardian
10 and Phillip Fordham.¹⁷

11 2. Simons & Associates

12 The Complaint alleges that the State Committee paid a political consulting firm, Simons
13 & Associates, to provide services to the Federal Committee.¹⁸ The complaint points to a May 2,
14 2013 press article asserting that Carter had hired political consultant David Simons to assist with
15 the federal campaign.¹⁹ The article notes that the Federal Committee made only one
16 disbursement to Simons & Associates for "invitations," and that disbursement was not made
17 until November 20, 2013, seven months after Carter reportedly hired Simons. The Complaint

¹⁶ We note, however, that Respondents submitted no documentation supporting its assertions that the work Fordham and Vardian did for each committee was logged to ensure proper allocation of salary payments. Further, the Complaint includes a copy of Vardian's LinkedIn Profile, Compl. Ex. B, which lists her work with the Federal Committee but makes no mention of an association with the State Committee.

¹⁷ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

¹⁸ Compl. at 2. According to its website, Simons & Associates is part of the Simons Political Group, LLC. The website states that Simons & Associates provides government and business communications for non-profits and small businesses. Simons Political Group is a full-service political consultancy. David Simons is the company's president. See <http://www.simonspoliticalgroup.com/>.

¹⁹ *Id.*, Ex. F (Sean Horgan, Kingston to Make Senate Race Official, SAVANNAH MORNING NEWS, May 2, 2013).

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also cites the State Committee's disclosure reports, which show periodic payments to Simons by the State Committee from January 2013 through March 2014, as specified below. From this information, the Complaint infers that the State Committee's payments were for services provided to the Federal Committee.

State Committee Disbursements to Simons & Associates

Date	Amount	Purpose
07/01/2013	\$250	Consulting fees
11/01/2013	\$250	Consulting fees
11/01/2013	\$500	Consulting fees
11/08/2013	\$250	Consulting fees
12/24/2013	\$500	Consulting fees
01/12/2013	\$500	Consulting fees
01/29/2014	\$717.65	St. Patrick's Day Parade
03/10/2014	\$1,000	Consulting

Respondents deny the allegation that the State Committee paid for services performed by Simon & Associates for the Federal Committee.²⁰ According to the Response, David Simons of Simons & Associates is a "long time consultant to the State Committee," who has been on a "retainer of \$500 per quarter (\$2,000/per year)" for several years under a "long-standing agreement." Respondents state that Simons performed only a "small amount" of work for the Federal Committee in late 2013, including printing invitations for which he was paid \$1,812.43 by the Federal Committee.²¹ Further, the Response states that because Simons' services on behalf of the two committees were "carefully" segregated, he was always compensated by the appropriate committee for those services.²²

²⁰ Resp. at 3.

²¹ *Id.*

²² *Id.*

1 Here, the available information shows that Carter may have hired Simons to work for his
2 federal campaign as early as April 2013.²³ The Federal Committee, however, reported no
3 disbursements to Simons & Associates until November 2013, and even then it was only a single
4 disbursement for a discrete project described as "printed invitations." Further, the State
5 Committee *did* make disbursements to Simons & Associates for "consulting fees" during this
6 time, as detailed in the chart above. And Respondents provide no specific description of the
7 services Simons & Associates provided to the State Committee, nor do they address the address
8 the press report identifying Simons as Carter's federal campaign consultant as early as May
9 2013.²⁴

10 Respondents, however, directly deny the allegation, asserting that the payments made by
11 the State Committee to Simons were for services provided to the State Committee at a time when
12 Carter was a State Senator and had ongoing official duties.²⁵ State disclosure reports corroborate
13 that Simon & Associates had a longstanding vendor relationship with the State Committee dating
14 back to 2007.²⁶ Respondents assert that the payments to Simons noted in the Complaint were

²³ See Compl. Ex. F (Sean Horgan, Kingston to Make Senate Race Official, SAVANNAH MORNING NEWS, May 2, 2013).

²⁴ Based on the State Committee's disclosure reports, Simons & Associates typically provided services such as fundraising services and consulting during elections. See Friends of Buddy Carter — Senate: 2010 December 31st Campaign Contribution Disclosure Report; 2011 December 31st Campaign Contribution Disclosure Report; 2012 March 31st Campaign Contribution Disclosure Report; 2012 June 30th Campaign Contribution Disclosure Report; 2013 June 30th Campaign Contribution Disclosure Report; 2013 December 31st Campaign Contribution Disclosure Report; 2014 March 31st Campaign Contribution Disclosure Report.

²⁵ Resp. at 3.

²⁶ Simons & Associates also provided consulting and fundraising services to Carter when he was a candidate for, and served in, the office of State Representative. See Friends of Buddy Carter — House: 2007 December 31st Campaign Contribution Disclosure Report; 2008 June 30th Campaign Contribution Disclosure Report; 2008 September 30th Campaign Contribution Disclosure Report; 2008 October 25th Campaign Contribution Disclosure Report; and, 2009 June 30th Campaign Contribution Disclosure Report. Between 2010 and March of this year, the State Committee disbursed funds totaling \$17,336.76 to the consulting firm for campaign consulting, fundraising, and unspecified services in connection with the annual St. Patrick's Day parade.

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made pursuant to “long-standing agreement” with Simons that called for a “retainer of \$500 per quarter (\$2,000/per year).”²⁷ The State Committee’s disclosure reports are consistent with this explanation — since January 1, 2012, the State Committee has been paying consulting fees to the firm on a regular basis in amounts that range from \$250 to \$1,000.²⁸

Based on the available information, the Commission, in the exercise of its prosecutorial discretion, dismisses the allegations that Respondents violated 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)) and 11 C.F.R. § 110.3(d) by transferring funds or assets to the Federal Committee through payments to Simons & Associates.²⁹

C. Transfer of Non-federal Funds from the State Committee to the Federal Committee

The State Committee made a \$1,000 contribution to the Federal Committee on March 31, 2014.³⁰ The Complaint alleges that this contribution violates both the prohibition on transfers between the federal and non-federal campaign committees of the same candidate and the prohibition against the receipt, transfer, or disbursement of funds in connection with a federal election that are not subject to the limitations, prohibitions and reporting requirements of the Act.³¹ The Response asserts that this contribution was permissible under the Act because federal committees are permitted to accept contributions of up to \$1,000 from unregistered political committees, so long as the committee is able to demonstrate through reasonable accounting

²⁷ Resp. at 3.

²⁸ The last disbursement for consulting fees (\$1,000) was on March 10, 2014. The State Committee also paid Simons & Associates \$3,209.91 on April 27, 2012 for “consulting fees” and “fundraising invitations.” See Friends of Buddy Carter – Senate 2012 October 25th Campaign Contribution Disclosure Report.

²⁹ See *Heckler*, 470 U.S. 821.

³⁰ Compl. Ex. I. (Friends of Buddy Carter – Senate 2014 March 31st Campaign Contribution Disclosure report; Buddy Carter for Congress 2013 April Quarterly Report.)

³¹ Compl. at 3; 11 C.F.R. § 110.3(d).

1 methods that it had sufficient federally acceptable funds to cover the amount of the
2 contribution.³² And, it notes that on March 31, 2013, its cash on hand was over \$30,000 and
3 claims that this amount included sufficient federally permissible funds from individuals to cover
4 the \$1,000 to the State Committee.³³

5 The Act does not permit a federal candidate; the agent of a candidate; or an entity directly
6 or indirectly established, financed, maintained, or controlled by, or acting on behalf of a
7 candidate, to "solicit, receive, direct, transfer, or spend funds in connection with an election for
8 Federal office" unless the funds are subject to the "limitations, prohibitions, and reporting
9 requirements."³⁴ Moreover, Commission regulations prohibit the transfer of funds or assets from
10 a candidate's nonfederal campaign committee to his or her federal campaign committee.

11 Nevertheless, because the amount at issue is *de minimis*, the Commission dismisses the
12 allegation that the State Committee violated 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C.
13 § 441i(e)(1)(A)); and 11 C.F.R. § 110.3(d) by making impermissible transfers to the Federal
14 Committee, or that the Federal Committee violated 52 U.S.C. § 30125(e)(1)(A) (formerly
15 2 U.S.C. § 441i(e)(1)(A)); and 11 C.F.R. § 110.3(d) by accepting impermissible transfers from
16 the State Committee, or that Earl LeRoy ("Buddy") Carter violated 52 U.S.C. § 30125(e)(1)(A)
17 (formerly 2 U.S.C. § 441i(e)(1)(A)) by knowingly accepting contributions from prohibited
18 sources and 11 C.F.R. § 110.3(d) by accepting impermissible transfers.³⁵

³² Resp. at 4.

³³ *Id.*

³⁴ 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)). The Act also prohibits the making or receipt of direct contributions using corporate funds. 52 U.S.C. § 301182(b) (formerly 2 U.S.C. § 441b).

³⁵ See *Heckler*, 470 U.S. 821.

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D. The State Committee's Receipt of Funds After Carter's Announcement of Federal Candidacy

The Complaint alleges that Carter and the State Committee violated the Act by improperly accepting several federally prohibited contributions after Carter became a federal candidate because the Act prohibits federal candidates from accepting any contributions or disbursing any funds that do not comply with federal limits.³⁶ In support, the Complaint attached several pages from three of the State Committee's disclosure reports indicating that, between June 13, 2013 and January 2014, the campaign accepted contributions totaling \$3,250 from four corporations.³⁷ Further, on April 1, 2014, the State Committee accepted one additional contribution in the amount of \$500.³⁸

The Response denies that the State Committee's receipt of contributions after Carter announced his congressional candidacy violated the Act.³⁹ Respondents claim in their Response that neither Carter nor the State Committee solicited the corporate contributions the campaign received following his announcement that he was running for Congress, insisting that the contributions were entirely "unsolicited" and likely made to support Carter's re-election to the state senate. In addition, the Response contends that any contributions received during that time period have not been spent in connection with any election or for any public

³⁶ Compl. at 1-2. *See also* 52 U.S.C. § 30125(e)(1)(A) and (B) (formerly 2 U.S.C. § 441i(e)(A) and (B)); 11 C.F.R. § 300.61, 300.62.

³⁷ *Id.*, Ex. A.

³⁸ The additional contribution of \$500 was made by DeVry University (Apr. 1, 2014).

³⁹ Resp. at 2. The Respondents requested that the Commission find no reason to believe they violated the Act, or "at worst," dismiss the allegation in light of the *de minimis* amount involved. *Id.*

1 communication.⁴⁰ According to the Response, Carter was planning to run for re-election to the
 2 Georgia Senate until he announced his candidacy for Congress in the Spring of 2013.⁴¹
 3 Respondents admit that the State Committee received four contributions totaling \$3,250 in the
 4 seven months following Carter's announcement, but claim these funds were not solicited by
 5 Carter or the State Committee.⁴² The Response asserts that Carter and the State Committee
 6 abided by the state prohibition against accepting contributions during the legislative session and,
 7 furthermore, did not solicit any contributions between the General Assembly's adjournment and
 8 the date Carter became a federal candidate and contends that its receipt of these "unsolicited"
 9 contributions is "understandable" as Carter was "planning to run for re-election."⁴³

10 Under the Act, a federal candidate, the agent of a candidate, or an entity directly or
 11 indirectly established, financed, maintained, or controlled by, or acting on behalf of a candidate,
 12 shall not "solicit, receive, direct, transfer, or spend funds in connection with an election for
 13 Federal office" unless the funds are subject to the "limitations, prohibitions, and reporting
 14 requirements."⁴⁴ The Act also prohibits a Federal candidate or officeholder, or their agents, from
 15 soliciting, receiving, directing, transferring, spending or disbursing funds in connection with any
 16 election other than for Federal office, unless the funds are subject to the limitations, prohibitions,
 17 and reporting requirements of the Act.⁴⁵ The Act stipulates, however, that these prohibitions do
 18 not apply to the solicitation, receipt, or spending of funds by an individual who is or was also a

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Resp. at 2.

⁴³ *Id.*

⁴⁴ 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)); 11 C.F.R. § 300.61.

⁴⁵ 52 U.S.C. § 30125(c)(1)(B) (formerly 2 U.S.C. § 441i(e)(1)(B)); 11 C.F.R. § 300.62.

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1 candidate for a State or local office if the solicitation, receipt, or spending is permitted under
2 State law and refers only to that candidate, or to any other candidate for the state or local office
3 sought that by candidate.⁴⁶ Thus, there would be a question of whether this "state law" exception
4 applies to the State Committee's receipt of contributions or disbursement of non-federal funds.

5 However, given the amount at issue in this matter, \$3,250, it would not be a prudent use
6 of Commission resources to pursue this allegation any further,⁴⁷ and the Commission dismisses
7 the allegation that the State Committee and Carter violated 52 U.S.C. § 30125(e)(1)(B) (formerly
8 2 U.S.C. § 441i(e)(1)(B)) by raising impermissible funds in connection with a non-federal
9 election.⁴⁸

⁴⁶ 52 U.S.C. § 30125(e)(2) (formerly 2 U.S.C. § 441i(e)(2)).

⁴⁷ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage of the Enforcement Process, 72 Fed. Reg. 12,454-12,456 (Mar. 16, 2007).

⁴⁸ See *Heckler*, 470 U.S. 821.